From: Robert C. Ramsdell III
To: Microsoft ATR
Date: 1/23/02 11:06am
Subject: Microsoft Settlement

Dear Sir or Madame,

As a business user of Microsoft operating systems and software products, I am very concerned that the proposed final judgment in the United States vs. Microsoft antitrust lawsuit is not in the public interest. I am writing to express my concern over this judgment. The ways that the final agreement fails to restore a competitive software and operating system marketplace include, but are not limited to, the following:

1) The Judgment defines too narrowly the applications and APIs the terms of the settlement apply to. As defined, only listed Microsoft middleware programs are considered to have APIs of interest. This means that Microsoft is free to obstruct the development of competing products by changing the APIs of important programs that are not listed as 'Microsoft Middleware'. The list of applications that the Judgment refers to is similarly narrow, and leaves out important programs such as Microsoft Outlook, Microsoft installer programs, etc. In addition, it appears that Microsoft can avoid even the restrictions on listed products by simply renaming or replacing the programs.

2) Microsoft is not required to release API information in a timely manner. Microsoft is only required to consider the interests of competing software vendors whose products meet "reasonable technical requirements" seven months before new releases of Windows. However, Microsoft is not required to disclose the API information these vendors need in anything like enough time to meet those requirements (whatever they may be). Indeed, since Microsoft is only required to release information at the time of the final beta release of it's software, these requirements can be evaded by simply scheduling the beta release less than seven months before the final release!

3) Microsoft is not required to document file formats. These formats are a crucial interface to Microsoft software that the Judgment fails to address at all. As it stands, Microsoft can use undocumented file formats to 'lock up' not only the software customers use, but the customers' own data in the files. Moreover, under the DMCA, Microsoft can write it's licenses in such a way that customers are not even allowed to 'reverse-engineer' the file formats to retrieve their data.

4) Microsoft is not required to disclose any patents it holds, thus exposing competing vendors to uncertainty about any patents they may be infringing, even when they use information provided by Microsoft under the Judgement.

5) The enforcement provisions are too soft. As it stands, a Technical Committee is set up with investigative powers. However, the committee has

no power to enforce any of it's findings. Thus if Microsoft decides to ignore, evade or obstruct the Committee, the only remedy would be to return to court. In the past, Microsoft has shown both the willingness and the capacity to subvert court decrees against it. Unless strong enforcement powers are built into the Judgment, Microsoft has every incentive to subvert this Judgment as well, and take it's chances in court while continuing any anti-competitive practices.
Please take these comments into consideration and strengthen the Judgment to truly restore a competitive operating system and application software market.

Sincerely,

Robert C. Ramsdell III
5528 Middaugh Avenue
Downers Grove, IL 60516